

CLERK'S COPY

FILED

IN THE UNITED STATES DISTRICT COURT AT ALBUQUERQUE NM
FOR THE DISTRICT OF NEW MEXICO

JUL 19 1999

KEITH RAYMOND CARTER,

Plaintiff,

ROBERT M. MARCH
CLERK

v.

No. CIV-99-0365 JC/KBM

H. MARTIN,
Food Service Supervisor for Lea County
Correctional Facility,

Defendant.

MEMORANDUM OPINION AND ORDER

This matter is before the Court *sua sponte* under 28 U.S.C. § 1915 and on two motions (Doc. #9 & 10) filed June 21, 1999, by Plaintiff. Plaintiff is proceeding *in forma pauperis* under 28 U.S.C. § 1915 and is required to cure the following deficiencies if he wishes to continue this litigation:

- X **monthly installment payment has not been received**
- X **monthly financial certificate has not been filed.**

Plaintiff's first motion is for default judgment against Defendant Martin. The motion will be denied because the file contains no indication that Defendant Martin had been served or had waived service when the motion was filed. Defendant Martin has now answered the complaint.

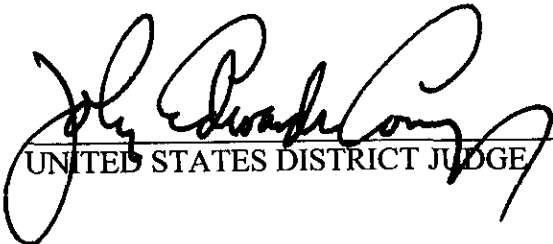
The second motion is an amended motion for free process which asks that Plaintiff's *in forma pauperis* status be extended to include the cost of copies at his place of incarceration. This motion will also be denied. *See United States v. MacCollom*, 426 U.S. 317, 321 (1976) ("The expenditure of public funds [on behalf of an indigent litigant] is proper only when authorized by Congress...."); *Badman v. Stark*, 139 F.R.D. 601, 605-06 (M.D. Pa. 1991) (indigent cannot look to federal court or defendants to underwrite discovery costs of civil action).

IT IS THEREFORE ORDERED that Plaintiff's motions for default judgment (Doc. #9) and

15

for free process (Doc. #10) filed June 21, 1999, are DENIED;

IT IS FURTHER ORDERED that Plaintiff cure the deficiencies designated above within thirty (30) days from the date of this order; failure to cure the designated deficiencies may result in dismissal of this action without further notice; any papers which Plaintiff files in response to this order must include the civil action number (CIV 99-0365 JC/KBM) of this case; and the Clerk of the Court shall mail to Plaintiff, together with a copy of this order, 2 copies of the post-filing financial certificate.


UNITED STATES DISTRICT JUDGE